

set aside the award. See, however, *In re Dare Valley R'way Co.*, 6 L. R. Eq. 429.

**Award must be final, conclusive and within submission—Costs—Time.**—But then the award is required above all things to be *final*, and of all subjects included in the submission, so as to prevent future litigation, *Griffith v. Jarrett*, 7 H. & J. 70;<sup>21</sup> for a submission to arbitration is to be regarded as a contract founded on the consideration of a valid and final determination of all the matters submitted; and therefore if any part of the object of arbitration fails by the omission of the arbitrator to award upon it, the whole submission is void; as it is also if the object of arbitration fails from any other cause, as by its being illegal, 1 Wms. Saund. 32 a. n. a. Hence the arbitrators cannot reserve to themselves, nor refer to the parties nor to another, any authority to be exercised after their powers are at an end by making the award, unless it be to perform some purely ministerial act, and so where arbitrators declared in their award that they had not before them the necessary information in order to decide the question submitted to them,—which was the ascertainment of the contents of certain lands,—and declining to determine it, deferred it to a future period after the time fixed by the submission for making the ascertainment, and made it then depend upon the effect of documents to be furnished by the parties to each other respectively, the award was held bad, although an award directing the payment of an exact sum on the happening of a clearly designated contingency is good, *Archer v. Williamson*, 2 H. & G. 62; *Carter v. Calvert*, 6 Md. 135. So the award must be within, for it is void if beyond, the submission,<sup>22</sup> and certain to a common intent, see *Armstrong v. Robinson*, 5 G. & J. 412; *Ebert v. Ebert*, 5 Md. 353. This is on the ground that the authority of the arbitrators is entirely derived from the agreement or rule for submission, and an award, including anything beyond the submission, is void as to that part, at least, wherein such authority is exceeded. If the subject referred then be one undivided matter, and the intention of the parties was to have a final determination of the whole of it according to the submission, and the arbitrators profess to act upon it, as in *Archer v. Williamson supra*, if the award comprehend only part of the matter submitted it is void. So where there was a judgment by confession for the penalty of a bond, to be released on payment of what A. should say was due, and the award was that such a sum should be paid in negro property, belonging to the estate of a deceased person, at the original appraisement, it was held void, because no other authority was given to A. than to certify the sum of money on which the judgment was to be released, whereas he had not pursued the submission, but had directed payment in negroes, belonging to a particular estate, at a value estimated by a particular standard, and the part of the award relating to the negroes could not be stricken out, *State v. Jones*, 2 Gill, 49. But although, if the part of the award made

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<sup>21</sup> *Witz v. Tregallas*, 82 Md. 351.

<sup>22</sup> *Bullock v. Bergman*, 46 Md. 278. The burden is on the attacking party to show that an award is outside of the submission. *Witz v. Tregallas*, 82 Md. 351.